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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 DAVID B. CAMPBELL,

11 Plaintiff,

12 v.

13 ELDON VAIL, et al.,

14 Defendants.

Case No. C09-5471BHS

ORDER OVERRULING
PLAINTIFF'S OBJECTIONS AND
ADOPTING REPORT AND
RECOMMENDATION

15 This matter comes before the Court on the Report and Recommendation of the
16 Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 5) and Petitioner's
17 Objections to the Report and Recommendation (Dkt. 6).

18 On August 17, 2009, Plaintiff filed a 42 U.S.C. § 1983 Civil Rights complaint against
19 Defendants. Dkt. 4. On August 18, 2009, Judge Creatura issued a Report and
20 Recommendation and recommended that the Court dismiss the complaint without prejudice.
21 Dkt. 5. Judge Creatura found that Plaintiff's Civil Rights action fails to state a claim
22 because it "directly challenges the propriety of plaintiff's guilty plea and criminal
23 conviction." *Id.* On August 28, 2009, Plaintiff filed Objections to the Report and
24 Recommendation. Dkt. 6.

25 In his objections, Plaintiff argues that, alternative to a federal habeas corpus action,
26 he may challenge his conviction under 42 U.S.C. § 1983. Dkt. 6 at 5-7. For the reasons
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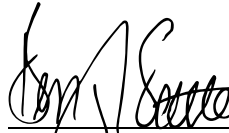
1 stated in Judge Creatura's report, the Court disagrees with Plaintiff. Therefore, the Court
2 overrules Plaintiff's objection to Judge Creatura's report.

3 The Court has reviewed the remainder of Plaintiff's objections and finds an absence
4 of any proper objection to Judge Creatura's report. Instead, Plaintiff's arguments challenge
5 his plea and the state court proceeding.

6 Therefore, the Court having considered the Report and Recommendation, Plaintiff's
7 objections, and the remaining record, does hereby find and order:

- 8 (1) The Court **OVERRULES** Plaintiff's Objections;
9 (2) The Court adopts the Report and Recommendation; and
10 (3) This action is **DISMISSED without prejudice** because Plaintiff has failed to
11 state a claim under 42 U.S.C. § 1983.

12 DATED this 6th day of October, 2009.

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15 BENJAMIN H. SETTLE
16 United States District Judge
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